

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

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FILE: B-214240

DATE: March 13, 1984

MATTER OF: Hoffman Construction Company, Inc.

DIGEST:

1. GAO generally will not review a contracting officer's determination of nonresponsibility with respect to a small business bidder since by law the Small Business Administration (SBA) is empowered to conclusively determine the responsibility of a small business.
2. GAO will not review the SBA's decision not to issue a certificate of competency where the protester fails to make a prima facie showing of fraud or willful disregard of the facts.

Hoffman Construction Company, Inc. (Hoffman), protests the nonresponsibility determination by the contracting officer and the refusal by the Small Business Administration (SBA) to issue a certificate of competency (COC) in connection with invitation for bids (IFB) No. 592-1-84, issued by the Veterans Administration (VA) Medical Center in Knoxville, Iowa.

We dismiss the protest.

Hoffman contends that SBA based its decision not to issue a COC on inaccurate information supplied by the VA Medical Center in Knoxville. Hoffman states that the facts presented are misleading and the field interview conducted by the Kansas City SBA office is not conclusive or accurate.

The SBA, not this Office, has statutory authority to review a contracting officer's determination of nonresponsibility and to determine conclusively a small business concern's responsibility by issuing or refusing to issue a COC. 15 U.S.C. § 637(b)(7) (1982). Consequently, we will not undertake an independent review of a contracting officer's nonresponsibility determination, since such review would be tantamount to a substitution of our judgment for that of the SBA. See Numax Electronics Incorporated, B-204632, December 10, 1981, 81-2 CPD 457.

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2

Moreover, this Office does not review the SBA's decision concerning a COC or to require the reopening of a case where a COC has been denied unless the protester makes a prima facie showing of fraud or willful disregard of the facts. See Coast Canvas Products II Co., Inc., B-210703, February 12, 1983, 83-1 CPD 181. The protester has made no such showing.

The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel